IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 21ST NOVEMBER 2006 / 30TH KARTHIKA 1928

WP(C).No. 30584 of 2006(N)

EP.149/2004 of SUB COURT, MANJERI
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PETITIONER:

P.T. SREENIVASAN, S/O.KUNJIKULANGARA BALAKRISHNAN NAIR, KUNIYIL, KEEZHUPARAMBU AMSOM AND DESOM, MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:
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1. THE SECRETARY, MALAPPURAM DISTRICT SERVICE CO-OPERATIVE BANK LTD., MALAPPURAM.

2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES, MALAPPURAM.

BY GOVERNMENT PLEADER SRI.P.N. SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

W.P.(C). 30584/2006

Dated this 21st day of November, 2006

JUDGMENT

The petitioner is the co-obligor of the principal debtor, as the latter had borrowed an amount of Rs.5,00,000/- from the first respondent, Malappuram District Service Co-operative Bank Ltd. But the principal debtor did not pay the amount and defaulted. Therefore, proceedings were initiated against the property of the petitioner, which was mortgaged to the loan availed by the principal debtor, through ARC No.238/2000 before the Registrar of Co-operative Societies, Malappuram, and award was passed for an amount of Rs.8,52,636/- and 20% interest for Rs.5,00,000/-.

2. After the decree, the first respondent had filed the Execution Petition(EP) before the Sub Court, Manjeri, and the same is pending as E.P.No.149/2004. The property is now proclaimed to be sold, which is scheduled on 22.11.2006. The petitioner is before this Court under

Article 227 of the Constitution of India, praying that benefit of Circular No.27/2006 dated 29.6.2006 may be given, so that the parties could enter into an one time settlement and avail the benefit, the validity period of which is upto 31.12.2006.

3. Ext.P1 is the representation dated 22.5.2006, praying for one time settlement preferred before the first respondent, and Ext.P2 is another representation dated 4.11.2006 by the petitioner, making the similar prayer for one time settlement.

4. I heard the submissions made by the learned counsel for the writ petitioner and also the learned Standing Counsel for the second respondent.

5. In the above facts situation, I direct the first respondent, Malappuram District Service Co-operative Bank Ltd., to give the facility of one time settlement as contained in circular No.27/2006 dated 29.6.2006. Ext.P2, preferred by the petitioner, shall be considered to that effect, within ten days from the date of production of a copy of this judgment.

6. The petitioner as well as the principal debtor shall be bound by the orders, that would be passed by the first respondent on Ext.P2, considering Circular No.27/2006.

7. After the effect of one time settlement as above, the first respondent shall move the Execution Court, Sub Court, Manjeri, for getting appropriate orders passed.

8. Till such time, there shall not be any execution against the writ petitioner, and the first respondent shall bring the same to the notice of the Sub Court, Manjeri, where E.P is pending for sale of the properties.

The writ petition is disposed of as above.

J.M.JAMES
JUDGE

mrcs